



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/036,578	11/07/2001	Prem Chandar	J6674(C)	4054
201	7590	05/06/2004	EXAMINER	
UNILEVER PATENT DEPARTMENT 45 RIVER ROAD EDGEWATER, NJ 07020			YU, GINA C	
			ART UNIT	PAPER NUMBER
			1617	

DATE MAILED: 05/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/036,578	Applicant(s) CHANDAR ET AL.	
	Examiner Gina C. Yu	Art Unit 1617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on February 19, 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,7,8 and 13-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,7,8 and 13-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on February 19, 2004 has been entered.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-2 and 7-8, 13 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Granger et al. (USPN 5,716,627), or, in alternative, in view of Potter et al. (USPN 5620692).

Granger et al. (USPN 5,716,627) teaches a skin-conditioning composition comprising (a) from about 0.001% to about 10% of retinol or retinyl ester, (b) from about 0.0001% to about 50% azole (e.g., climbazole), (c) about 0.0001% to about 50% of LMEA and (d) a cosmetically acceptable vehicle, see claim 1 and col. 2, lines 31-62, see also examples 8 and 10. See instant claims 1, 2, 7, 8. Granger also teaches the employment of azoles in an oil-in-water emulsion, see example 7 in col. 16. Granger further teaches the employment of from about 0.5% to 50% emollients such as esters, fatty acids, alcohols, polyols and hydrocarbons, see col. 5, lines 20-26. Granger finally

teaches the employment of imidazole compounds in its composition, see for example col. 6, lines 6-12.

While the reference does not teach that each ingredient in the oil phase should have the peroxide value as recited in the instant claims, the limitation is considered met because the prior art composition comprises same constituent of the oil phase of the emulsion.

Potter et al. teach, "[t]he peroxide value of a lipid provides an indication of the amount of rancidity-inducing peroxide radicals present in the lipid and is inversely correlated with product stability". See col. 1, lines 34 – 37. The reference further teaches that the peroxide value indicates the oxidative stability of the fat and its antioxidant effectiveness. See col. 1, lines 37-41. The reference also teaches that freshly prepared oil or highly preferred oil of the prior art has a peroxide value of zero. See col. 1, lines 41 – 45; col. 4, lines 7 – 14.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the composition of Granger by using oils having low peroxide values as motivated by Potter et al. because of the expectation of successfully producing stable cosmetic composition with antioxidant effectiveness.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Granger et al. (USPN 5,716,627) and Potter et al. (USPN 5,620,692) as applied to claims 1-2 and 7-8, 13 and 15 above, and further in view of Granger et al. (WO 98/13020).

The combined references do not teach the employment of alpha-ionone in its composition.

Granger et al (WO 98/13020) teaches a skin conditioning composition for topical application comprising from 0.001% to 10% of retinol or retinyl ester, from 0.0001% to 50% of a compound which inhibits LRAT or ARAT catalyzed retinol esterification such as, alpha ionone, and a cosmetically acceptable carrier, see page 10, lines 17-18; page 3; page 35 table 7 for example. Granger also teaches optional ingredients such as linoleic acid, mono or di esters, fatty alcohols, polyols and hydrocarbon. See for example page 15-16.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to employ alpha-ionone in the skin care composition of the combined references as motivated by Granger (WO 09/13020) because alpha-ionone is known to be useful (together with retinoids and the excipients herein) in skin care conditioning compositions.

Response to Arguments

Applicant's arguments filed February 19, 2004 have been fully considered but they are not persuasive in part and moot in part in view of new grounds of rejection.

Applicants argue that Granger '627 does not disclose the same ingredients recited in the instant claims. Applicants' argument is unpersuasive because the reference specifically teaches that climbazole, the recited booster of the instant claim, is the most preferred compound. See '627, col. 2, lines 59-62.

Applicants' argument regarding the peroxide value limitation of the instant claims is moot in view of the new ground of rejection as indicated above.

Applicants assert that Granger '627 and Granger (WO 98/13020) are somehow not combinable. The argument is unpersuasive because both are directed to cosmetic compositions comprising retinoids and thus close analogous arts. A routineer at the time of the present invention would have obviously found the motivation to combine the two references and expected to successfully produce an enhanced skin care composition with skin conditioning and improved retinoid effects.

Applicants' argument that the Granger references do not address the controlling the peroxide value of the oil phase is moot in view of the new rejection as indicated above.

Conclusion

No claims are allowed.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gina C. Yu whose telephone number is 571-272-0635. The examiner can normally be reached on Monday through Friday, from 8:30 AM until 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sreeni Padmanabhan can be reached on 571-272-0629. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 1617

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Gina Yu
Patent Examiner



SREENI PADMANABHAN
SUPERVISORY PATENT EXAMINER